

# **GUATEMALA 2013 HUMAN RIGHTS REPORT**

## **EXECUTIVE SUMMARY**

*Note: This report was updated 3/18/14; see Appendix H: Errata for more information.*

Guatemala is a multi-party constitutional republic. In November 2011 Otto Perez Molina of the Patriot Party won the presidential election for a four-year term that began in January 2012. International observers considered the election generally free and fair. In some instances civilian authorities failed to maintain effective control over the security forces. Members of the security forces committed human rights abuses.

Principal human rights abuses included widespread institutional corruption, particularly in the police and judicial sectors; police and military involvement in serious crimes such as kidnapping, drug trafficking, and extortion; and societal violence, including often lethal violence, against women.

Other human rights problems also included abuse and mistreatment by National Civil Police (PNC) members; harsh and life-threatening prison conditions; arbitrary arrest and detention; prolonged pretrial detention; failure of the judicial system to ensure full and timely investigations and fair trials; and failure to protect judicial officials, witnesses, and civil society representatives from intimidation and threats. There were also killings of journalists and trade unionists; sexual harassment and discrimination against women; child abuse, including commercial sexual exploitation of children; discrimination and abuse of persons with disabilities; and trafficking in persons. Other problems included marginalization of indigenous communities and ineffective demarcation of their lands, discrimination on the basis of sexual orientation and gender identity, and ineffective enforcement of labor and child labor laws.

The government cooperated with the UN-backed International Commission Against Impunity in Guatemala (CICIG) and took steps to prosecute officials who committed abuses. Impunity, however, continued to be widespread.

Considerable violence was attributed to gangs, organized crime, and narcotics-trafficking organizations; however, corruption and inadequate investigation and prosecution of such crimes made factual attribution for crimes difficult.

**Section 1. Respect for the Integrity of the Person, Including Freedom from:****a. Arbitrary or Unlawful Deprivation of Life**

The PNC and its Office of Professional Responsibility (ORP), which is the mechanism for investigating security force abuse, did not provide the total annual number of accusations of killings involving PNC agents at year's end. There were no reports that the government committed politically motivated killings.

On August 8, a court convicted former criminal investigations director of the PNC Victor Hugo Soto Dieguez and sentenced him to 33 years in jail for the extrajudicial killing of three inmates who escaped from the El Infiernito prison in 2005 and seven inmates who escaped from the Pavon prison in September 2006. A court also convicted and sentenced PNC agents Axel Arnaldo Martinez and Victor Manuel Ramos Molina to 25 years in jail for the same crimes.

On May 10, a three-judge panel found former dictator Efraín Ríos Montt guilty of genocide and crimes against humanity and sentenced him to 80 years in prison. On May 20, the Constitutional Court overturned the conviction on procedural grounds and returned the case to a different panel for rehearing.

According to government statistics, in the first nine months of the year, there were 4,661 violent deaths reported throughout the country, compared with 4,412 violent deaths for the same period in 2012, a 5.6 percent increase.

**b. Disappearance**

There were no reports of politically motivated disappearances.

On September 21, a court convicted Israel Miranda Ramirez and sentenced him to 50 years in prison for abuse of power and the forced disappearance of four PNC investigators in March 2012.

In June 2012, authorities arrested 11 PNC agents in the kidnapping of Byron Eduardo Lopez Moreno and the attempted kidnapping of Mexican national Francisco Bravo Navarro in May 2012; the agents were members of Police District 13 in Guatemala City's Zone 10. In October 2012, the Fifth First Instance Court closed the case citing lack of evidence, and on February 1, the Third Appeals Court confirmed that decision.

On April 22, authorities arrested five PNC agents for kidnapping a woman in 2008 in the municipality of San Pedro in San Marcos Department.

On September 20, a court convicted Hector Bol de la Cruz and Jorge Humberto Gomez Lopez and sentenced them to 40 years in jail for the 1984 forced disappearance of student leader and trade union activist Edgar Fernando Garcia.

In August 2012 judges convicted former police commander Pedro Garcia Arredondo for the 1981 forced disappearance of student Edgar Saenz Calito and sentenced Arredondo to 70 years in jail. An appeals court upheld the sentence on May 20.

### **c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment**

Although the constitution and the law prohibit torture and other cruel, inhuman, or degrading treatment or punishment, there were credible reports of abuse and other mistreatment by PNC members.

On April 5, a court convicted PNC Agent Marvis Florian Lemus and sentenced him to 61 years in jail for the rape of a 12-year-old girl he illegally detained for 11 months.

### **Prison and Detention Center Conditions**

Prison conditions were harsh and life threatening, with multiple instances of killings of inmates by other inmates. No cases were investigated or trials held in these incidents. Sexual assault, inadequate sanitation and medical care, and gross overcrowding continued to place prisoners at significant risk.

Physical Conditions: Prison overcrowding continued to be a problem. According to the prison system registry, as of August 2, there were 16,244 inmates, including 1,412 women, held in facilities designed to hold 6,742 persons. There were 876 juveniles under the custody of the Secretary of Social Welfare.

Physical conditions included wholly inadequate sanitation and bathing facilities, dental and medical care, ventilation, temperature control, and lighting. Prisoners had difficulty accessing potable water, complained of inadequate food, and often had to pay for additional sustenance. Illegal drug sales and use continued to be widespread. Prison officials continued to report a loss of safety and control,

including escape attempts, gang fights, the inability to control the flow of goods into prisons, and the fabrication of weapons. Prisoners continued to direct criminal activity both inside and outside of prisons. The prison guard force did not control prisoners effectively.

On February 15, inmate Byron Lima Oliva, serving a 20-year conviction for complicity in the murder of Bishop Gerardi, was arrested while out of prison. Penitentiary System Director Luis Gonzalez Perez had, without the mandatory court order, authorized Lima to visit a dentist in the morning. A routine highway checkpoint intercepted Lima after 6 p.m. Gonzalez was fired for the incident, and Lima remained in custody at the Pavoncito Prison.

From January to October, according to the Penitentiary System, 38 prisoners died while in prison, 34 of whom died of natural causes. No further information was available on the causes for the other four deaths.

Conditions for male and female prisoners were usually comparable throughout the country. The media and nongovernmental organizations (NGOs) noted, however, that female and juvenile inmates faced continuing physical and sexual abuse. Female inmates reported unnecessary body searches and verbal abuse by prison guards. Children under three years of age could live in prison with their mothers, although the penitentiary system provided inadequate food for young children, and many suffered from illness. Lesbian, gay, bisexual, and transgender (LGBT) rights groups noted that other prisoners often sexually assaulted gay and transgender individuals.

Occasionally, authorities held together male and female detainees in immigration facilities, held pretrial detainees with convicted prisoners, and held juveniles with adults.

Administration: The government's independent human rights ombudsman, whose responsibilities also include prisoner rights, does not have authority to act on behalf of prisoners and detainees regarding alternatives to incarceration for nonviolent offenders, circumstances of confinement of juvenile offenders, or procedural improvements to ensure prisoners do not serve beyond the maximum sentence for the charged offense. Recordkeeping remained inadequate. Authorities used alternatives to sentencing for nonviolent offenders.

Prisoners and detainees had reasonable access to visitors and could observe their religious practices. While the law requires authorities to permit prisoners and

detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions, authorities failed to investigate most allegations of inhumane conditions and treatment or to document the results of such investigations in a publicly accessible manner.

Independent Monitoring: The government permitted visits by local and international human rights groups, the Organization of American States (OAS), public defenders, and religious groups.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention, but there were credible reports of extrajudicial arrests, illegal detentions, and denial of timely access to a magistrate and hearing as required by law.

#### **Role of the Police and Security Apparatus**

The PNC, overseen by the Ministry of Government and headed by a director general appointed by the ministry, has responsibility for law enforcement and maintenance of order in the country. The military focuses primarily on operations in defense of the country; however, the army was increasingly utilized in internal security and policing. The Ministry of National Defense oversees the military. Civilian authorities in some instances failed to maintain effective control over the PNC and the army, and the government lacked effective mechanisms to investigate and punish abuse and corruption. There were reports of impunity involving security forces during the year. The PNC remained understaffed, inadequately trained, and insufficiently funded, all of which substantially impeded its effectiveness.

While no active members of the military served in the police command structure, the government continued to employ the military along with police units in response to rising crime. The level of impunity for security forces accused of committing crimes was high. In cases in which police forces were implicated, the ORP is charged with internal investigations; the Public Ministry is responsible for external investigations. To reform the police forces, a Police Reform Commission, established under the previous administration, has a legal mandate to make necessary changes.

Police impunity for criminal activities continued to be a serious problem. There were credible reports that individual PNC officers and some police units or persons

disguised as police officers stopped cars and buses to demand bribes or steal private property and in some cases kidnapped, assaulted, and raped victims. Police and immigration officials reportedly extorted and mistreated persons attempting to enter the country illegally. The PNC routinely transferred officers suspected of wrongdoing rather than investigating and punishing them.

Police continued to threaten persons engaged in commercial sexual activities with false drug charges to extort money or sexual favors and harassed LGBT persons with similar threats. Critics accused police of indiscriminate and illegal detentions when conducting anti-gang operations in some high-crime neighborhoods. Security officials allegedly arrested and imprisoned suspected gang members without warrants or on false drug charges. There were press reports of police involvement in kidnappings for ransom. The ORP and the Public Ministry reported that during the year numerous complaints were filed against PNC personnel for kidnapping.

The ORP conducted internal investigations of misconduct by police officers. In the first 10 months of the year, the ORP reported receiving 1,461 complaints alleging misconduct of police personnel.

The PNC reported it trained 2,035 cadets in human rights and professional ethics. By year's end the Ministry of National Defense had not released the number of military officers and soldiers receiving human rights training.

### **Arrest Procedures and Treatment of Detainees**

The law requires presentation of a court-issued warrant to a suspect prior to arrest unless the suspect is caught in the act of committing a crime. Police may not detain a suspect for more than six hours without bringing the case before a judge. Authorities did not regularly respect this right, however, and some detainees were not promptly informed of the charges filed against them. After suspects are arraigned, the prosecutor generally has three months to complete the investigation and file the case in court, or seek a formal extension of the detention period. The law prohibits the execution of search warrants between 6:00 p.m. and 6:00 a.m. unless the government has declared a state of siege. The law provides for access to lawyers and bail for most crimes. The government provides legal representation for indigent detainees, and detainees have access to family members. A judge has the discretion to determine whether bail is necessary or permissible for pretrial detainees.

Arbitrary Arrest: There were no reliable data on the number of arbitrary detentions, although most accounts indicated that police forces continued to ignore writs of habeas corpus in cases of illegal detention, particularly during neighborhood anti-gang operations. No detailed reporting from ORP or NGOs was available by year's end.

Pretrial Detention: The law establishes a three-month limit for pretrial detention, but authorities regularly held detainees past their legal trial or release dates. Authorities did not release some prisoners in a timely fashion after completing full sentences due to the failure of judges to issue the necessary court order or other bureaucratic problems. As of August 14, prison system records indicated 50 percent of prisoners were in pretrial detention.

#### **e. Denial of Fair Public Trial**

The constitution and the law provide for an independent judiciary. The judicial system failed to provide fair or timely trials due to inefficiency, corruption, insufficient personnel, and intimidation of judges, prosecutors, and witnesses.

Judges, prosecutors, plaintiffs, and witnesses continued to report threats, intimidation, and surveillance, most often from drug-trafficking organizations. By the end of September, the special prosecutor for crimes against judicial workers had received 213 complaints of threats or aggression against workers in the judicial branch, compared with 145 in 2012.

The Ministry of Government assigned police officers to CICIG to enhance judicial security. The CICIG-vetted prosecutor unit, created by the Public Ministry, continued to be directly supervised by a senior prosecutor with CICIG. According to CICIG, it participated in the investigation of 57 high-profile cases, including extrajudicial executions, extortion, trafficking in persons, improper adoptions, corruption, and drug trafficking. CICIG prosecuted the Gasofa case, which involved a gasoline-smuggling network including PNC and customs official. Several CICIG cases culminated in convictions, such as the August 8 conviction of former chief of criminal investigations of the PNC Victor Hugo Soto Dieguez and former police investigators Axel Arnaldo Martinez Arriaza and Victor Manuel Ramos Molina. Soto was sentenced to 33 years in jail and the others 25 years for the extrajudicial killing of 10 inmates between 2005 and 2006. Also notable were the September 30 convictions of former police chief Baltazar Gomez, former PNC chief of antinarcotics Nelly Judith Bonilla, and police officer Fernando Carrillo

Garcia. All three were convicted and sentenced to 16 years in jail for storing, dealing, and trafficking drugs.

There was no reporting available regarding witnesses killed during the year.

The Supreme Court continued to seek the suspension of judges and conduct criminal investigations for improprieties or irregularities in cases under its jurisdiction. The Judicial Disciplinary Unit investigated 978 complaints of wrongdoing, held hearings for 390 complaints, and applied sanctions to several cases, ranging from written notice to 30-day suspension.

### **Trial Procedures**

The constitution provides for the right to a fair public trial, the presumption of innocence, the right to be present at trial, and the right to counsel in a timely manner. The law requires attorneys be provided at government expense for defendants facing criminal charges if the defendant cannot find or afford an attorney. Defendants and their attorneys have access to government-held evidence relevant to their case, and they may confront adverse witnesses and present their own witnesses and evidence. The law provides for plea bargaining and the right of appeal. Three-judge panels render verdicts, and there are no trials by jury. The law provides for oral trials and mandates language interpretation for those needing it; however, courts did not always provide language interpretation.

The Public Ministry, acting semi-independently of the executive branch, may initiate criminal proceedings on its own or in response to a complaint. Private parties may participate in the prosecution of criminal cases as plaintiffs. Lengthy investigations and frequent procedural motions by both defense and prosecution often led to excessively long pretrial detention, frequently delaying trials for months or years.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

Individuals and organizations had access to administrative and judicial remedies to bring lawsuits seeking damages for, or cessation of, a human rights violation or



other alleged wrongs. While the judiciary was generally impartial and independent in civil matters, it suffered from inefficiency and institutional weaknesses.

#### **f. Arbitrary Interference with Privacy, Family, Home, or Correspondence**

The constitution and the law prohibit such actions, and the government generally respected these prohibitions.

### **Section 2. Respect for Civil Liberties, Including:**

#### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights; however, criminal intimidation of journalists resulted in significant self-censorship.

Press Freedoms: Despite laws supporting freedom of the press, many journalists were the victims of threats, harassment, and violence. Reporters covering organized crime, including its links to corrupt public officials, acknowledged practicing self-censorship, recognizing the danger investigative journalism posed to them and their families. The independent media were active and expressed a wide variety of views, but difficulty obtaining licenses to operate community radio stations and accessing some information limited press freedom.

Violence and Harassment: Members of the press continued to report that violence and impunity impaired the practice of free and open journalism. The press reported that numerous threats by public officials and criminal organizations increased journalists' sense of vulnerability.

During the year unidentified assailants killed four journalists in separate attacks. It was unclear whether the journalists were targeted because of their profession. The government established a task force to investigate these killings and any potential linkages to the journalists' professions.

The Public Ministry reported it received 113 complaints of attacks and other acts of intimidation against journalists as of the end of September.

Censorship or Content Restrictions: Members of the press reported receiving pressure, threats, and retribution by various public officials regarding the selection and content of their reporting. Some owners and members of the media also

accused the government of following a discriminatory advertising policy, penalizing or rewarding print and broadcast media based upon whether news or commentary was perceived as supportive or critical of the administration.

In August Jose Ruben Zamora, director of *El Periodico* newspaper, claimed the government attempted to force the closure of his newspaper by withholding government advertising and enforcing a de facto but undeclared boycott by private sector advertisers because his paper was critical of the administration.

Nongovernmental Impact: Organized crime exerted violent influence over media outlets and reporters, frequently threatening individuals for reporting on criminal activities and warning journalists not to write or publish reports about crimes.

Private companies were also accused of criminalizing the work of journalists. On July 25, *Prensa Libre* reporter Ricardo Miranda accused the sugar plantation El Pilar of illegal intimidation and filed a complaint in a local court. El Pilar had sued Miranda for defamation because of Miranda's reporting on El Pilar's contamination of a local river. The defamation suit against Miranda and Miranda's countersuit remained open at year's end.

### **Internet Freedom**

There were no government restrictions on access to the internet or credible reports that the government monitored e-mail or internet chat rooms without appropriate legal authority. According to the International Telecommunication Union, 3 percent of households had access and 16 percent of the population used the internet in 2012.

### **Academic Freedom and Cultural Events**

There were no government restrictions on academic freedom or cultural events.

### **b. Freedom of Peaceful Assembly and Association**

The constitution provides for freedom of assembly and association, and the government generally respected these rights; however, there were reports of security forces using excessive force against demonstrators.

### **Freedom of Assembly**

On May 2, the government declared a 30-day state of siege that limited certain rights in the municipalities of San Rafael las Flores, Casillas, Jalapa City, and Mataquescuintla, following weeks of protests and several days of violence surrounding the approval of a mining license for a foreign mining project in San Rafael las Flores. Police arrested at least 14 persons under the state of siege pursuant to a court-ordered warrant for illicit association, murder, and robbery, among other charges.

### **Freedom of Association**

The law provides for freedom of association, and the government generally respected this right; however, there were reports of significant barriers to organizing in the labor sector (see section 7.a.).

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

#### **d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons**

The constitution and the law provide for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

#### **Internally Displaced Persons (IDPs)**

The Internal Displacement Monitoring Centre reported that IDPs, estimated at 6,000 individuals, displaced by the prior long conflict (1960-96) between the government and insurgents grouped under the Guatemalan National Revolutionary Unity, had no access to durable solutions and were unlikely to rebuild their lives and livelihoods. Additionally, the country, as part of the so-called Northern Triangle of Central America (which also includes Honduras and El Salvador) had experienced a significant increase in organized crime violence, which reportedly caused internal displacement.

#### **Protection of Refugees**

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees.

### **Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government**

The constitution provides citizens with the right to change their government peacefully, and citizens exercised this right through periodic, free, and fair elections held on the basis of nearly universal suffrage for those 18 years of age and older. Members of the armed forces and police are not permitted to vote.

#### **Elections and Political Participation**

Recent Elections: In November 2011 Otto Perez Molina of the Patriot Party won a four-year term as president. The OAS international observation mission characterized the elections as generally free and fair.

Participation of Women and Minorities: The vice presidency was held by Roxana Baldetti, the first woman to hold this position. There were 21 women in the 158-seat congress. A total of 339 women served as judges or magistrates out of 918 nationwide, including one on the Supreme Court and one on the Constitutional Court. In addition to the vice president, there were two women in the 14-member cabinet. Five of the country's 333 mayors were women.

While the indigenous population comprised 44 percent of the population, their representation in national government was minimal. At year's end there was one indigenous cabinet member and there were no indigenous members on the Supreme Court or the Constitutional Court. There were 20 indigenous members of congress. Indigenous individuals composed a greater share of local government. There were 113 indigenous mayors.

### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, but officials frequently engaged in corrupt practices with impunity. As in previous years, inadequate political will and widespread impunity facilitated government corruption.

Corruption: In September 2012 Mayor of Antigua Guatemala Adolfo Vivar was arrested, along with 10 others, and charged with embezzling 20 million quetzales (\$2.5 million) of municipal funds. At year's end Vivar was detained and his trial pending. On June 3, former mayor of San Miguel Petapa Rafael Eduardo Gonzalez Rosales and five others were arrested for fraud and money laundering of approximately 34 million quetzales (\$4.3 million) of municipal funds. Long-time Chinautla Mayor Arnoldo Medrano was also under investigation for public corruption. Medrano was immune from prosecution as an acting mayor, but a special tribunal was weighing whether to strip Medrano of immunity. Medrano's son, Edgar Alfredo Medrano Osorio, was one of the five individuals charged in the San Miguel Petapa corruption case.

There were numerous instances of corruption within the police and judiciary. On January 17, in a case that commenced in 2012, a court sentenced nine former PNC agents to 18 years in jail for illicit association and smuggling of contraband gasoline into the country. Twelve other suspects related to the case awaited trial.

The Comptroller General's Office and the Public Ministry are responsible for combating corruption. The comptroller general's mandate is to monitor public spending, and the attorney general's mandate is to prosecute crimes. Both agencies actively collaborated with civil society and were relatively independent; however, they lacked resources, which affected their capabilities. Under the leadership of Attorney General Claudia Paz y Paz, the Public Ministry worked with CICIG to improve the ministry's effectiveness and reported a significant drop in the impunity rate for homicide in Guatemala City, from more than 95 percent in 2010 to 70 percent in 2012. There was no similar improvement in the prosecution of official corruption cases.

Whistleblower Protection: There is no specific legal framework to protect whistleblowers.

Financial Disclosure: Public officials who earn more than 8,000 quetzales (\$1,012) per month or who manage public funds are subject to financial disclosure laws overseen and enforced by the Comptroller General's Office. The financial disclosures were made available to the public upon request. Administrative and criminal sanctions apply for inadequate or falsified disclosures of assets.

Public Access to Information: The law provides for the right of citizens to access public information and establishes fines for government agencies that obstruct such access. The disclosure law contains exceptions for national security, sets

reasonably short timelines for disclosure, and allows for a reasonable processing fee. There are no sanctions for noncompliance. The government granted access to public information for citizens and noncitizens, including foreign media, although at times in a slow and incomplete manner. While there is no formal mechanism to appeal denials of requests, petitioners often successfully appealed to the Office of the Human Rights Ombudsman for assistance relating to a government denial of public information.

### **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights**

A variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative in some cases. On September 30, government officials accused unnamed foreign nationals from environmental and anti-mining organizations of inciting civil disturbances in Santa Cruz Barillas and threatened to expel them from the country. No individuals were reported to have been deported as a result of the Santa Cruz Barilla protests.

A number of NGOs, human rights workers, and trade unionists reported threats, violence, and intimidation by unidentified persons. NGOs asserted that the government did little to investigate these reports or prevent further incidents. NGOs also reported the increasing use of threats of legal action as a form of intimidation.

The majority of cases brought to the Office of the Special Prosecutor for Human Rights went without timely investigation or languished in the court system.

The NGO Guatemalan Human Rights Defenders Protection Unit (UDEFEGUA) reported 18 killings of human rights defenders through November, compared with 13 killings in 2012. UDEFEGUA also reported 622 attacks against human rights defenders through November, compared with 326 attacks in 2012. According to various human rights NGOs, many of the attacks were related to conflicts over land, the exploitation of natural resources, and the legal proceedings against Rios Montt.

Government Human Rights Bodies: The Office of the Human Rights Ombudsman reports to congress and monitors the human rights set forth in the constitution. The ombudsman operated without government or party interference, had the government's cooperation, and issued public reports and recommendations,

including an annual report to congress on the fulfillment of its mandate. The office was not adequately resourced.

The President's Commission on Human Rights (COPREDEH) has responsibility to formulate and promote the government's human rights policy. COPREDEH also led coordination of police protection for various human rights and labor activists during the year. COPREDEH benefited from the administration's cooperation and operated without political or party interference. Resources for the commission were not adequate; however, it was considered reasonably effective and had the trust of the public.

The Congressional Committee on Human Rights drafts and provides advice on legislation regarding human rights matters. By law all political parties represented in congress are required to have a representative on the committee. NGOs considered the committee to be an effective public forum for promoting and protecting human rights.

## **Section 6. Discrimination, Societal Abuses, and Trafficking in Persons**

The constitution and law prohibit discrimination based on race, gender, disability, language, or social status. The government frequently did not enforce these provisions, however, and there was no protection related to sexual orientation and gender identity discrimination.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and sets penalties between five and 50 years in prison. Police, however, had minimal training or capacity to investigate sexual crimes or assist victims of such crimes, and the government did not enforce the law effectively; full investigation and prosecution of domestic violence and rape cases took an average of one year. Impunity for perpetrators remained at very high levels. Rape victims frequently did not report crimes due to lack of confidence in the justice system, social stigma, and/or fear of reprisal.

Rape and other sexual offenses remained serious problems. According to the Public Ministry, there were 2,156 cases of sexual or physical assault reported through September. Over the same period, there were 141 convictions for sexual or physical assault on women. Information on average length of sentences for those convicted was unavailable.

The government took steps to combat femicide and violence against women. It maintained the PNC's Special Unit for Sex Crimes, Office of Attention to Victims, Office of the Special Prosecutor for Crimes against Women, and a special unit for trafficking in persons and illegal adoptions within the Special Prosecutor's Office for Organized Crime. The Supreme Court and Public Ministry maintained a 24-hour court to offer services related to violence directed toward women, including sexual assault, exploitation, and trafficking of women and children.

The law establishes penalties of five to eight years for physical, economic, and psychological violence committed against women because of their gender. Violence against women, including domestic violence, remained a serious problem. The law prohibits domestic abuse, allows for the issuance of restraining orders against alleged aggressors and police protection for victims, and requires the PNC to intervene in violent situations in the home. The PNC often failed to respond to requests for assistance related to domestic violence, and women's rights advocates reported few officers received training to deal with domestic violence or assist victims.

Femicide affected both women and girls and remained a major problem. In most killings, sexual assault, torture, and mutilation were evident. The Public Ministry reported 419 killings of women as of the end of September. The conviction rate was only 1 to 2 percent for femicide. NGOs noted that the severity of sentences was not always appropriate to the crime.

The Institute of Public Criminal Defense provided free legal, medical, and psychological assistance to victims of domestic violence.

The government's Program for the Prevention and Eradication of Intrafamily Violence, under the Secretariat of Social Work, reported receiving five calls daily from battered women and children. The Public Ministry reported there were 6,880 complaints of intrafamily violence against women and children as of September 30. The government reported 152 convictions in cases of intrafamily violence against women and children as of the end of September.

Although the law affords protection, including shelter, to victims of domestic violence, there were insufficient facilities for this purpose.

The Office of the Ombudsman for Indigenous Women within COPREDEH provided social services for victims of domestic or social violence, as well as



mediation, conflict resolution, and legal services for indigenous women. The office also coordinated and promoted action by government institutions and NGOs to prevent violence and discrimination against indigenous women, but it lacked human resources and logistical capacity to perform its functions on a national level. The office maintained no statistics on its caseload.

The Ministry of Government operated eight shelters for victims of abuse in departments with the greatest incidence of domestic violence. Several other shelters operated in cities and the countryside funded by private donors or municipal governments. Many of the centers provided legal and psychological support and temporary accommodation.

Sexual Harassment: The law does not prohibit sexual harassment, and there were no accurate estimates of its occurrence. Human rights organizations reported, however, that sexual harassment was widespread across all sectors.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children, and they sometimes had the information and means to do so free from discrimination. While the government provided access to family planning information and sex education through the public health system, provision of health services in remote areas and in indigenous languages was limited. The UN Population Fund (UNFPA) reported that 34 percent of married women used a modern method of contraception in 2012.

Cultural, geographic, and linguistic barriers existed in access to reproductive health care, particularly for indigenous women in rural areas. Discriminatory attitudes among health-care providers and a lack of culturally sensitive reproductive and maternal health-care services also deterred many indigenous women from accessing these services. The UNFPA estimated that in 2010 the maternal mortality rate was 120 deaths per 100,000 live births. The principal causes of maternal mortality included limited access to skilled health-care attendants and, in some instances, poor prenatal and postnatal care. The UNFPA estimated that skilled health personnel attended 51 percent of births in 2012.

Discrimination: The law establishes the principle of gender equality and criminalizes discrimination, but women faced discrimination, particularly in family law and labor law, and were less likely to hold management positions. Women found employment primarily in low-wage jobs in agriculture, retail businesses, the service sector, the textile and apparel industries, and the government. Women also obtained employment more frequently in the informal sector, where pay and

benefits generally were lower. The 2012 Global Gender Gap Report estimated that earned income of women was 44 percent that of men; women on average received 60 percent of men's salaries for comparable work. Women may legally own, manage, and inherit property on an equal basis with men, including in situations involving divorce.

The government's Secretariat for Women's Affairs advises the president on interagency coordination of policies affecting women and their development. Several NGO groups working on women's issues reported that the secretariat maintained a very low profile during the year and was not as engaged with members of civil society as during previous administrations.

## **Children**

Birth Registration: Citizenship is derived by birth within the country's territory or from one's parents. The UN Children's Fund (UNICEF) described low birth registration as a "serious problem," and the Office of the UN High Commissioner for Refugees reported problems in registering births were especially acute in indigenous communities due to inadequate government registration and documentation systems. Factors such as the need to travel to unfamiliar urban areas, interact with nonindigenous male government officials, and speak Spanish inhibited some indigenous women from registering themselves and their children. Foreign citizens residing in the country without appropriate documentation were prevented from registering their locally born children prior to regularizing their own immigration status. Lack of registration restricted children's access to some public services.

Education: While compulsory through age 12, education through the secondary level is not obligatory, and girls were significantly less likely than boys to be educated to the secondary school level. Access to compulsory education in primary school was limited in many rural areas, and religious institutions often assisted in providing education.

Child Abuse: Child abuse remained a serious problem. The Unit of Adolescent and Child Victims of the Special Prosecutor's Office for Women investigated cases of child abuse but did not report on its cases.

The Secretariat of Social Welfare, which oversees children's treatment, training, special education, and welfare programs, provided shelter and assistance to children who were victims of abuse but sometimes placed children under its care in

shelters with juveniles who had criminal records. The government operated a girls' shelter in Antigua and a boys' shelter in San Jose Pinula. Two other shelters in Quetzaltenango and Zacapa served both boys and girls. During the year the government established three shelters dedicated to victims of trafficking in persons. The government continues to provide funding to youth shelters operated by NGOs for child victims of abuse or human trafficking.

Forced and Early Marriage: The minimum legal age for marriage is 18. With parental consent, the age is 16 for boys and 14 for girls, but the law provides exceptions in cases where girls have a child or are pregnant. There were credible reports of forced early marriages in some rural indigenous communities. UNICEF's *2012 State of the World's Children* reported that 35 percent of women 20 to 24 years of age were first married or in union by age 18 (8 percent of them by age 15). There were no reported government efforts to combat child marriage.

Sexual Exploitation of Children: The law provides sentences ranging from 13 to 24 years in prison, depending on the victim's age, for engaging in sex with a minor. The minimum age of consensual sex is 18. The Public Ministry reported 2,639 complaints of sexual assault or rape against minors as of September, with 111 convictions.

The law also prohibits child pornography and establishes penalties of six to 10 years in prison for producing, promoting, and selling child pornography and two to four years imprisonment for possessing it. The commercial sexual exploitation of children, including child sex tourism, remained a problem, with credible reports of child sex tourism in Antigua Guatemala, Guatemala City, and Solola Department.

The Human Rights Ombudsman's Office did not release the number of child prostitution cases during the year, nor did the Public Ministry report the number of convictions in cases of commercial sexual exploitation of children.

Displaced Children: Criminals and gangs often recruited street children, many of whom were former victims of domestic abuse, for purposes of stealing, transporting contraband, prostitution, and illegal drug activities. According to the Public Ministry and PNC, approximately 3,000 youth were involved in street gangs. The NGO Mutual Support Group reported 77 minors suffered violent deaths nationwide between January and October. NGOs dealing with gangs and other youth reported concerns that street youth detained by police were subject to abusive treatment, including physical assaults.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's report on compliance at [travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html), as well as country-specific information at [travel.state.gov/abduction/country/country\\_5878.html](http://travel.state.gov/abduction/country/country_5878.html).

### **Anti-Semitism**

There were no reports of anti-Semitic acts. The Jewish population numbered approximately 2,000 persons.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **Persons with Disabilities**

The constitution contains no specific prohibitions against discrimination based on physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services. The law, however, mandates equal access to public facilities and provides some other legal protections. In many cases persons with disabilities did not enjoy these rights, and the government devoted few resources to addressing the problem. The law does not mandate that persons with disabilities have access to information or communications. Accessible public transportation was minimal.

The National Council for Persons with Disabilities reported few persons with disabilities attended educational institutions or held jobs. The council, composed of representatives of relevant government ministries and agencies, is the principal government entity responsible for protecting the rights of persons with disabilities. The council met regularly to discuss initiatives and had a budget of 10.6 million quetzales (\$1.34 million). There were no reports on what, if any, effect the council had on meeting the needs of persons with disabilities.

There were minimal educational resources for persons with special needs, and most universities did not have accessible facilities for persons with disabilities.

The National Hospital for Mental Health, the principal health provider for persons with mental illness, lacked basic supplies, equipment, hygienic living conditions, and adequate professional staffing. In October 2012 Disability Rights International filed a complaint with the Inter-American Commission on Human Rights and documented mistreatment of mentally ill patients. Later in 2012 the commission found the charges credible and ordered preventive measures aimed at protecting all patients, particularly women and children, from physical, psychological and sexual violence by other inmates, guards, and hospital staff. In October the government agreed to initiate a series of reforms and implement new legal protections for mentally ill persons and those with disabilities.

### **Indigenous People**

The National Institute of Statistics estimated that indigenous persons from 22 ethnic groups constituted 43 percent of the population. The law provides for equal rights for indigenous persons and obliges the government to recognize, respect, and promote their lifestyles, customs, traditions, social organizations, and manner of dress. Indigenous communities were not regularly consulted on or able to participate in decisions affecting the exploitation of resources in their communities, including energy, minerals, timber, or other natural resources.

Mayan indigenous communities continued to report a lack of public infrastructure investment in their communities, leading to poor roads and limited access to running water and electricity. Mayan and Garifuna indigenous persons reported the need for schools with bilingual education and cultural studies, educational scholarships, leadership training to increase indigenous persons' participation in politics, and the construction of universities (not just extension campuses), hospitals, and health clinics in their communities.

Indigenous representatives voiced concerns that a number of regional development projects failed to consult meaningfully with local communities and disproportionately benefited corporations, government officials, and their associates, while posing risks for indigenous land and cultures.

Indigenous persons were underrepresented in national politics and remained largely outside the country's political, economic, social, and cultural mainstream. This was largely due to limited educational opportunities contrary to law, limited communication regarding their rights, pervasive discrimination, and lack of funding for pro-indigenous political parties. These factors contributed to economic barriers leading to continued disproportionate poverty among most indigenous

populations. While some members of the indigenous population participated in politics, civil society representatives questioned whether such participation influenced the national political party structure.

Indigenous lands lacked effective demarcation, making the formal recognition of titles to the land problematic. Indigenous rights advocates asserted that a pervasive lack of cultural awareness and understanding by security authorities of indigenous norms and practices engendered misunderstandings. Few indigenous police officers worked within their own ethnic or linguistic communities.

On April 16, Qanjob'al community activist Daniel Pedro Mateo was found dead in Santa Eulalia, Huehuetenango, and his body showed signs of torture. Mateo was kidnapped 12 days earlier after a meeting to coordinate protests against a local hydroelectric project at Santa Cruz Barillas.

On April 29, six members of the Xinca community were shot and wounded in a protest against local mine at San Rafael Las Flores. The mine's security chief, Peruvian national Alberto Rotondo, was arrested and was awaiting trial at year's end. The company operating the mine cooperated with the investigation and maintained that Rotondo acted independently.

More than 50 percent of indigenous women over the age of 15 were illiterate, and a disproportionate number of indigenous girls did not attend school.

The Department of Indigenous People in the Ministry of Labor, tasked with investigating cases of discrimination and representing indigenous rights, counseled indigenous persons on their rights; however, limited resources hindered the department's effectiveness.

Legally mandated court interpreters for criminal proceedings were rarely available. In many instances bilingual judges or court employees received assignments to areas where their second language was not spoken.

### **Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity**

Antidiscrimination laws exist, but they do not apply to LGBT individuals. LGBT rights groups alleged that members of the police regularly engaged in extortion by waiting outside clubs and bars frequented by LGBT persons to demand that those engaged in sexual activities pay protection money or pay to avoid jail. Police often

harassed male and transgender individuals they believed to be sex workers, many of whom were minors. According to LGBT rights groups, gay and transgender individuals often experienced police abuse.

A woman who attempted to file a complaint with the Public Ministry (MP) alleging domestic violence on the part of her lesbian partner was informed that domestic violence only applied to heterosexual couples and that the MP would not receive or investigate her complaint.

A gay man in Santiago, Atitlan, was assaulted leaving a local festival and lost an eye. The MP initially refused to receive or investigate the man's complaint because he was "gay and drunk." Only after the personal intervention of the human rights ombudsman did the MP receive the complaint and agree to investigate the attack.

A lack of trust in the judicial system and a fear of further harassment or social recrimination discouraged victims from filing complaints. There was general societal discrimination against LGBT persons in access to education, health care, employment, and housing. The government undertook minimal efforts to address this discrimination.

The Presidential Femicide Commission reported three transgender individuals were killed during the year.

### **Other Societal Violence or Discrimination**

The law does not expressly include HIV/AIDS status among the categories prohibited from discrimination, and there was societal discrimination against persons with HIV/AIDS.

According to PNC statistics, vigilante mobs, often in rural indigenous communities, killed 27 persons through August. Targets were often individuals suspected of rape, kidnapping, theft, or extortion. Many observers attributed the acts to public frustration with the failure of police and judicial authorities to provide justice and security. This vacuum led to the emergence of local citizen-security groups. In many instances PNC agents refused to intervene due to fear for their own safety.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law provides for the right of workers, with the exception of security force members, to form and join trade unions of their choice, conduct legal strikes, and bargain collectively; however, the law places some restrictions on these rights. For instance, legal recognition of a new industry-wide union requires that the membership constitute a 50-percent-plus-one majority of the workers in an industry and restricts union leadership to citizens.

In addition, the process for calling a strike is complex and lengthy, and by law a strike must have the support of 51 percent of a company's workforce. The president and cabinet may suspend any strike deemed "gravely prejudicial to the country's essential activities and public services." The government defined "essential services" more broadly than international standards, thus denying the right to strike to a large number of public workers, such as those working in education, postal services, transport, and the production, transportation, and distribution of energy. Public employees and workers in sectors deemed essential may address grievances by means of mediation and arbitration through the Ministry of Labor's General Inspectorate of Labor and also directly through the labor courts.

The law prohibits employer retaliation against strikers engaged in legal strikes, but employers may suspend or fire workers for absence without leave if authorities have not recognized a strike as legal. The law calls for binding arbitration if no agreement is reached after 30 days of negotiation.

A factory or business owner is not obligated to negotiate a collective bargaining agreement unless at least 25 percent of workers in that factory or business are union members and request negotiations. The law prohibits antiunion discrimination and employer interference in union activities and requires employers to reinstate workers dismissed illegally for union-organizing activities.

The government did not effectively enforce legislation on freedom of association, collective bargaining, or antiunion discrimination. Due to a combination of inadequate allocation of budget resources and inefficient legal and administrative processes, the relevant government institutions did not effectively investigate, prosecute, and punish employers who violated freedom of association and collective bargaining laws or reinstate workers illegally dismissed for engaging in union activities. Inspectors continued to fail to take effective action to gain access to worksites in response to employers' refusal to permit labor inspectors entry to



facilities to investigate worker complaints, including failing to regularly seek police assistance as required. Penalties for labor law violations ranged from 50 quetzales (\$6.30) to 5,000 quetzales (\$630) but were inadequate and rarely enforced.

The Labor Ministry cannot impose a fine or otherwise sanction employers for labor law violations discovered during inspections but must refer these cases to the courts. Only labor courts have the authority to impose sanctions for violations of the labor law. Employers frequently refused to respect decisions favorable to workers, and courts rarely sanctioned employers for ignoring court orders. Appeals and employers' widespread use of maneuvers, such as re-incorporation as a different entity, often prolonged reinstatement proceedings. The length of time to process cases regarding the re-instatement of workers and other labor law violations was excessive, often taking two to four years and some lasting more than 10 years. Courts also faced difficulties in providing notification of their orders when employers were listed under incorrect addresses or simply refused access to the court official delivering notification.

On March 26, the government signed a Memorandum of Understanding (MOU) with the chairperson of the workers' representatives of the International Labor Organization (ILO) governing body to address labor violence and develop a roadmap to raise awareness of freedom of association and collective bargaining, amend legislation to address the ILO's recommendations, and ensure the application of labor laws, including empowering labor inspectors to fine violators. Following a high-level tripartite mission in October, the ILO noted that while the government had taken some specific actions to implement the MOU provisions regarding the investigation of the murders of trade union members, it had not substantially addressed the other areas of the MOU. The ILO called on the government to prepare a detailed roadmap to address these issues, in consultation with the social partners, with a timeline for its implementation. The government presented that road map to the ILO later in October.

Separately, on April 26, the government agreed to an enforcement plan in response to the November 2012 establishment of an arbitral panel under the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR) regarding the government's apparent failure to effectively enforce its labor laws. Under the plan the government committed to take the following actions: strengthen labor inspections, expedite and streamline the process of sanctioning employers and ordering remediation of labor violations, increase labor law compliance by exporting companies, improve the monitoring and enforcement of

labor court orders, publish labor law enforcement information, and establish mechanisms to ensure that workers are paid what they are owed when factories close.

The Special Prosecutor's Unit for Crimes against Unionists within the Office of the Special Prosecutor for Human Rights in the Public Ministry was responsible for investigating attacks against union members. The unit's small size of five (one prosecutor, three assistant prosecutors, and one administrator) limited its effectiveness. Impunity remained significantly high. According to Public Ministry statistics, the unit won no convictions. In meetings with the ILO high-level mission, CICIG indicated that threats against witnesses in criminal investigations and trials were a considerable impediment to the fight against impunity.

Although the Ministry of Interior operated a protection program that included some trade unionists, the number of unionists covered under the program and type and adequacy of the protection provided was unclear. The ministry had not finalized its process for risk analysis of threats to determine the type of protection needed. Although the government reported that it operated a hotline where union members could call and report threats, labor groups reported that the hotline did not function and calls were often misdirected or unanswered.

Procedural hurdles, union formation restrictions, and impunity for employers refusing to receive or ignoring court orders limited freedom of association and collective bargaining. Worker organizations were independent of the government and political parties. The International Trade Union Confederation's (ITUC) annual report noted numerous and arbitrary obstacles for union registration.

On September 24, the Attorney General's Office signed a collaboration agreement with CICIG to build the analysis and investigation capacities of the office in cases of violence against trade union officials and members. Also in September the government began to review 22 of the 58 cases of killings of trade unionists reported to the ILO Committee on Freedom of Association to CICIG to analyze the investigations in those cases and, where applicable, make recommendations to the Attorney General's Office on possible additional required investigations. In November CICIG reported that its initial review concluded 21 of the 22 homicides were not related to the victim's labor union activities and one case showed the possibility of a link.

Violence and threats against trade unionists and worker activists remained serious problems. Several labor leaders were killed or reported death threats and other acts

of intimidation. In June ITUC reported that Guatemala had become the most dangerous country in the world for trade unionists, citing at least 53 union leaders killed between 2007 and June and numerous acts of attempted murder and threats.

On March 8, Carlos Antonio Hernandez Mendoza, leader of the National Health Workers Union (SNTSG), was shot and killed in Camotan, Chiquimula. On June 1, the PNC and MP arrested three men (Keiron Guerra, Mario Gutierrez Sanchez and Elder de Jesus Guerra) as suspects in the killing. There was no further progress in the investigations of the March 2012 killing of Luis Ovidio Ortiz, member of the executive committee of the National Health Workers Union, or the June 2012 killing of Manuel de Jesus Ramirez, Conflict Secretary of the Workers' Union of the Public Defenders' Institute.

There continued to be reports that management or persons hired by management harassed and threatened workers who did not accept employer dismissals or refused to forfeit their right to reinstatement. Most acts of violence and threats were not thoroughly investigated and went unprosecuted, often making it difficult to identify motives for killings. Local unions continued to urge authorities to investigate the killings of unionists and called for increased security for union leaders and members.

Employers routinely resisted union formation attempts, delayed or only partially complied with labor agreements, and ignored judicial rulings requiring the employer to negotiate with recognized unions. There were credible reports of retaliation by employers against workers who tried to exercise their rights, including numerous complaints filed with the Ministry of Labor and Public Ministry alleging employer retaliation for union activity. Common practices included termination and harassment of workers who attempted to form workplace unions, creation of illegal company-supported unions to counter legally established unions, blacklisting of union organizers, and threats of factory closures. Employers threatened not to renew contracts or not to offer subcontracted workers permanent employment if the worker joined a union or refused to disaffiliate.

On June 10, Banco de los Trabajadores fired Jose Eduardo Estrada Chapeton and Santos Augusto Sija Alvarez, members of a recently organized union. This action appeared to be part of a continued campaign by the bank's management against union workers. At year's end the bank had not re-instated the unionized workers fired in October 2012. The fired workers claim the bank fired them in an attempt to break the union.

There were reports during the year that some companies in the growing call center industry heavily relied on subcontractor or other work arrangements to divide larger call centers into several smaller companies, making it difficult for a company to reach the 20-worker threshold needed to register a union.

Employers often failed to comply with reinstatement orders. This was often due to the inability of labor courts to enforce their court orders and legal ambiguity that allowed employers to appeal reinstatement orders without complying with them. Employers, often with impunity, failed to pay the full amount of legally required severance payments to workers or to pay court-ordered fines.

In March Minister of Health Jorge Villavicencio fired 15 union workers, who were ordered two weeks later to be re-instated. In a separate case on April 19, the Office for Property Titling (“Registro de Informacion Catastral” or RIC) fired workers whose application to form an union was pending Ministry of Labor approval. The RIC did not comply with a subsequent labor court order to re-instate the workers, and it subsequently filed charges against the workers that led to their arrest. A subsequent penal court, however, determined that the charges lacked merit and ordered the release of the workers. The workers claim the RIC’s actions were attempts at intimidation for their actions to form a union.

Local unions reported that businesses also continued to use fraudulent bankruptcies, ownership substitution, and reincorporation of companies to circumvent legal obligations to recognize newly formed or established unions, despite legal restrictions on such efforts.

An active “solidarity association” movement continued. Although the law stipulates that trade unions have an exclusive right to negotiate work conditions on behalf of workers, unions continued to assert that management promoted solidarity associations to discourage the formation of trade unions or to compete with existing labor unions.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor. The government failed to enforce these laws effectively in some cases. Administrative penalties ranged from 50 quetzales (\$6.30) to 5,000 quetzales (\$630) but were inadequate and rarely enforced. Criminal penalties for forced labor under the penal code ranged from eight to 18 years’ imprisonment. The government lacked sufficient resources

(labor inspectors, vehicles, equipment) to conduct effective and regular inspection or to pursue remediation for forced labor cases.

Reports continued that men and women were subjected to forced labor in agriculture and domestic service. There were also reports of forced child labor (see section 7.c.).

Also see the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/](http://www.state.gov/j/tip/).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

The law bars employment of minors under the age of 14, although it allows the Ministry of Labor to authorize children under age 14 to work in exceptional cases. The ministry committed not to provide such authorizations, and the Labor Inspectorate reported that it did not make any authorizations during the year. The law prohibits persons under 18 from work where alcoholic beverages are served, in unhealthy or dangerous conditions, and at night or overtime. The legal workday for persons younger than 14 is six hours; for persons 14 to 17 it is seven hours.

The Ministry of Labor's Child Worker Protection Unit is responsible for enforcing restrictions on child labor and educating minors, their parents, and employers on the rights of minors in the labor market. Penalties range from 50 quetzales (\$6.30) to 5,000 quetzales (\$630); the government did not effectively enforce these laws, a situation exacerbated by the weakness of the labor inspection and labor court systems. The government devoted insufficient resources to prevention programs.

Child labor was a widespread problem. The NGO Conrad Project Association of the Cross estimated that the workforce included approximately one million children between the ages of five and 17. Most child labor occurred in rural indigenous areas. The informal and agricultural sectors regularly employed children below 14, usually in small family enterprises, including in the production of broccoli, coffee, corn, fireworks, gravel, and sugar. Indigenous children also worked in street sales, rubber and timber production, and as shoe shiners and bricklayer assistants. Some child laborers worked an average of 45 hours per week.

An estimated 39,000 children, primarily indigenous girls, worked as domestic servants and were often vulnerable to physical and sexual abuse. In the Mexican

border area, there were reports of forced child labor in municipal dumps and street begging.

Also see the Department of Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

The law sets national minimum wages for agricultural and nonagricultural work and work in garment factories. The minimum wage was 68 quetzales (\$8.56) per day for agricultural and nonagricultural work and 62.50 quetzales (\$7.87) per day for work in export-sector regime factories. Minimum wage earners also are due a mandatory monthly bonus of 250 quetzales (\$31.49), and salaried workers receive two mandatory yearly bonuses (the Christmas bonus and a "14th month" bonus), each equivalent to one month's salary. In December 2011 the National Statistics Institute estimated that the minimum food budget for a family of five was 2,617 quetzales (\$330) per month. The basic basket for vital needs, including food and housing, was 4,777 quetzales (\$602).

The legal workweek is 48 hours with at least one paid 24-hour rest period. Workers are not supposed to work (ordinary and over time) more than 12 hours a day. The law provides for 12 paid annual holidays and paid vacation of 15 days after one year's work. Daily and weekly maximum hour limits do not apply to domestic workers. Workers in the formal sector receive the standard pay for a day's work for official annual holidays. Time-and-a-half pay is required for overtime work, and the law prohibits excessive compulsory overtime.

The Ministry of Labor conducted inspections to monitor compliance with minimum-wage law provisions, but the government allocated inadequate resources to enable inspectors to enforce the law, especially in the agricultural sector and very large informal sector. The ministry conducted inspections and information campaigns to encourage payment of the Christmas and "14th month" bonuses; it claimed those efforts ensured a significant increase in the payment of such bonuses. In 2012, the latest year for which such data were available, the ministry employed approximately 330 labor inspectors, although many of them performed conciliation or administrative duties rather than clearly defined inspection duties. From April to June 2012, the ministry reportedly hired 100 inspectors, whose main responsibility was to carry out inspections.

The Ministry of Labor continued to operate a call center that received calls requesting information or advice and registering complaints about labor law violations. The center referred complaints to labor inspectors and labor courts for further action.

Labor inspectors reported uncovering numerous instances of overtime abuses, but effective enforcement was undermined due to inadequate fines by labor courts, labor court inefficiencies, employer refusals to permit labor inspectors to enter facilities or provide access to payroll records and other documentation, and inspectors' lack of effective follow-up in the face of such refusals. Fines were insufficient to deter violations. Moreover, labor inspectors were not authorized by law to sanction employers but had to send alleged violations to the labor courts, where often inefficient and lengthy court proceedings delayed resolution to cases (in many instances for years). Decisions favorable to workers were rarely enforced.

The government sets occupational health and safety standards, which were inadequate, not current for all industries, and poorly enforced. Authorities often failed to investigate fully or assign responsibility for negligence, and employers rarely were sanctioned for failing to provide a safe workplace. Legislation requiring companies with more than 50 employees to provide onsite medical facilities for their workers was not enforced.

Trade union leaders and human rights groups reported that employers required workers to work overtime without legally mandated premium pay. Management often manipulated employer-provided transportation to worksites to force employees to work overtime, especially in export processing zones located in isolated areas with limited transportation alternatives. Noncompliance with minimum wage provisions in the agriculture and informal sector was widespread. Advocacy groups estimated that more than half of the workers in rural areas who engaged in day-long employment did not receive the wages, benefits, and social security allocations required by law. According to credible estimates, between 65 and 86 percent of the workforce continued to work within the informal sector and outside the basic protections afforded by law.

Local unions continued to highlight and protest violations by employers who failed to pay employer and employee contributions to the national social security system despite employee contribution deductions from workers' paychecks. These violations, particularly common in the private sector and export industries, resulted in limiting or denying employees' access to the public health system and reducing or underpaying workers' pension benefits during their retirement years.